

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOSEPH G. DUNBAR,

Petitioner,

v.

Case Number: 03-10232-BC
Honorable David M. Lawson

BRUCE CURTIS,

Respondent.

**ORDER DENYING PETITIONER'S
APPLICATION TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

This matter is before the Court on petitioner's application to proceed *in forma pauperis* on appeal. An appeal may be taken *in forma pauperis* if the appeal is taken in "good faith." 28 U.S.C. § 1915(a). "Good faith" requires a showing that the issues are arguable on the merits and are, therefore, not frivolous; it does not require a showing of probable success. *Harkins v. Roberts*, 935 F. Supp. 871, 873 (S.D. Miss. 1996) (quoting *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983)). "If the district court can discern the existence of any nonfrivolous issue on appeal, the movant's petition to appeal in formal pauperis must be granted." *Harkins*, 935 F. Supp. at 973. This Court has already denied the petitioner a certificate of appealability, indicating that the petitioner's arguments are not fairly debatable on the merits. As such, the petitioner's appeal cannot be taken in good faith.

Accordingly, it is **ORDERED** that the petitioner-appellant's application to proceed *in forma pauperis* on appeal [dkt #36] is **DENIED**.

s/David M. Lawson

DAVID M. LAWSON

United States District Judge

Dated: August 24, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 24, 2005.

s/Tracy A. Jacobs

TRACY A. JACOBS